

1       (2) "Aseptic processing and packaging system" means a system that is intended to fill  
2       commercially sterilized and cooled milk or milk products into pre-sterilized containers, and then  
3       hermetically seal each container with a pre-sterilized closure, in an atmosphere free of  
4       microorganisms.

5       (3) "Automated milking installation" or "AMI" means a robotic milking system that  
6       identifies, prepares and milks lactating animals; detects and segregates abnormal milk; and  
7       automatically cleans and sanitizes all milk contact surfaces, at least once daily and after the  
8       segregation of abnormal milk, such that normal milk is not adulterated.

9       (4) "Bulk milk tanker" means a mobile bulk container used to transport milk, fluid milk  
10      products, whey or whey cream in bulk from a dairy farm, or to or from a dairy plant, in this state.  
11      "Bulk milk tanker" includes a container, which is permanently mounted on a motor vehicle or  
12      that is designed to be towed by a motor vehicle, and includes all equipment and accessories  
13      related to the container. "Bulk milk tanker" does not include a container that is used by a milk  
14      producer solely to transport that producer's own milk to that milk producer's bulk tank or to a  
15      licensed dairy plant operated by that milk producer.

16      (5) "Bulk milk weigher and sampler" means any person who collects official milk samples  
17      and may transport raw milk from a farm, or raw milk or fluid milk products to or from a dairy  
18      plant, receiving station or transfer station, and is licensed under s. ATCP 82.04.

19      (6) "Bulk tank" means a permanent or semi-permanent tank, container, or silo used to  
20      receive, cool or store bulk quantities of milk on a dairy farm. "Bulk tank" does not include milk  
21      cans.

22      (7) "Bulk tank unit" or "BTU" means at least one dairy farm that is rated as a single entity  
23      and given a single sanitation compliance and enforcement rating by the division.

1       (8) “Bulk transport container” means a vehicle or container into which milk directly flows  
2 during milking and that a milk producer uses to ship the milk from a dairy farm to a dairy plant.

3       (9) “C-I-P” means clean-in-place, which is the process by which equipment is cleaned and  
4 sanitized without being disassembled and by the mechanical circulation of cleaning and  
5 sanitizing solutions onto interior milk and dairy product contact surfaces.

6       (10) “Composite sample” means a sample of milk that is collected from 2 or more milk  
7 shipments from the same milk producer and that is compiled and preserved according to s.  
8 ATCP 65.80 (4).

9       (11) “Cowyard” means an enclosed or unenclosed area, approximately adjacent to a milking  
10 barn or parlor, in which milking animals congregate. “Cowyard” includes milking animal  
11 walkways, feeding areas, watering areas, washing areas, and housing areas located outside but  
12 adjacent to a milking barn or parlor.

13       (12) “Dairy farm” means a dairy farm, as defined in s. 97.22 (1) (a), Stats., operated by a  
14 milk producer and includes a milkhouse.

15       (13) “Dairy plant” means any of the following:

16       (a) A place where a dairy product is manufactured or processed for sale or distribution as  
17 human food.

18       (b) A receiving station.

19       (c) A transfer station.

20       (d) For the purposes of assigning milk producer license application responsibilities, a milk  
21 contractor, or any business under par. (a) or (b) of this section, that submits a milk producer  
22 license application on behalf of a milk producer and thereby certifies that the milk producer’s  
23 dairy farm and milking operations comply with applicable requirements under this chapter.

1       (14) "Dairy plant operator" means a person who operates a dairy plant. "Dairy plant  
2 operator" includes the operator of a dairy plant located outside this state if the operator procures  
3 milk from producers located in this state. "Dairy plant operator" does not include a person  
4 identified under s. 97.20 (2) (e), Stats.

5       (15) "Dairy product" means any product defined as a dairy product in s. 97.20 (1) (b) 1. to 5.,  
6 Stats.

7       (16) "Department" means the department of agriculture, trade and consumer protection.

8       (17) "Division" means the department's division of food and recreational safety.

9       (18) "Drug" has the meaning given in 21 USC 321 (g). "Drug" includes antibiotics and  
10 inhibitory substances.

11       (19) "Equipment" means either:

12       (a) An implement, vessel, pipeline, machine, or apparatus, other than a utensil, and including  
13 C-I-P systems, that has one or more product contact surfaces and is used in moving, handling,  
14 storing, or processing dairy products at a dairy plant, or

15       (b) An implement, vessel, machine, or apparatus, other than a utensil, that has one or more  
16 milk contact surfaces that is used to draw milk from milking animals or to transport, hold,  
17 handle, cool, or store milk on a dairy farm.

18       (20) "Fluid milk product" means cream, sour cream, acidified sour cream, half-and-half, sour  
19 half-and-half, whipped cream, concentrated milk, concentrated milk products, reduced fat milk,  
20 low fat milk, nonfat milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, yogurt,  
21 low fat yogurt, nonfat yogurt, eggnog, holiday nog, nog-flavored milk, vitamin and mineral  
22 fortified milk or milk products, and any other fluid milk product made by adding any substance  
23 to milk or any of these products.

1       **(21)** “Facility” has the meaning given in 21 CFR 117.3.

2       **(22)** “Frozen dessert” means ice cream, French ice cream, artificially sweetened ice cream,  
3 frozen custard, frozen yogurt, frozen concentrates, ice milk, sherbet, gelato, water ice,  
4 quiescently frozen confection, quiescently frozen dairy confection, manufactured frozen-dessert  
5 mix, and frozen whipped cream confections. “Frozen dessert” includes frozen-dessert mix.

6       **(23)** “Frozen-dessert mix” means a mixture of frozen dessert ingredients that has not yet been  
7 processed and frozen to create a frozen dessert. “Frozen-dessert mix” includes a mix of  
8 previously pasteurized dry dairy ingredients that is combined with potable water to create a  
9 liquid mix.

10       **(24)** “Grade A dairy farm” means a dairy farm owned or operated by a licensed producer for  
11 which a Grade A permit is required under s. ATPCP 65.02 (11) and s. 97.22 (3), Stats.

12       **(25)** “Grade A dairy plant” means a dairy plant required to hold a permit under s. ATPCP  
13 65.04 (14) and s. 97.20 (3), Stats.

14       **(26)** “Grade A dairy product” means a fluid milk product that is produced from grade A milk  
15 and processed and distributed in compliance with grade A standards under this chapter.

16       **(27)** “Grade A milk” means milk produced, processed, and distributed in compliance with  
17 Grade A requirements under this chapter.

18       **(28)** “Grade A producer permit” means a grade A dairy farm permit under s. 97.22 (3) Stats.

19       **(29)** “Grade B dairy plant” means a dairy plant other than a grade A dairy plant.

20       **(30)** “Grade B dairy product” means a dairy product other than a grade A dairy product.

21       **(31)** “Grade B dairy farm” means a dairy farm other than a grade A farm.

22       **(32)** “Grade B milk” means milk other than grade A milk, that is used in the production of  
23 dairy products that are not grade A milk products as defined in s. 97.20 (1) (f), Stats.

1       (33) “HHST” means higher heat shorter time.

2       (34) “HTST” means high temperature short time.

3       (35) “Key violation” means any of the following:

4       (a) A repeat violation of any dairy farm standard under subch. II, as determined on 2  
5 consecutive inspections of a dairy farm.

6       (b) An initial violation of any dairy farm standard under subch. II if the violation creates a  
7 substantial risk of milk adulteration, whether or not the violation constitutes an imminent health  
8 hazard. The following conditions are considered key violations under this paragraph unless a  
9 division representative determines, under all of the surrounding circumstances, that they do not  
10 create a substantial risk of milk adulteration:

11       1. Unclean milk contact surfaces of equipment or utensils.

12       2. Filthy conditions in a milking barn or parlor, such as several days' accumulation of manure  
13 in gutters or other areas.

14       3. Filthy conditions in a cowyard that could reasonably be expected to result in milking  
15 animals having very dirty flanks, udders, and teats.

16       4. Filthy conditions in a milkhouse.

17       5. Water supply, water pressure, or water heating facilities not in compliance with this  
18 chapter.

19       6. No access to a toilet facility on the farm premises, or to a handwashing facility in the  
20 milkhouse.

21       7. Violation of standards under this chapter related to well construction or potability of water  
22 supply, including any cross connection between potable and non-potable water sources.

1        8. Lack of an approved sanitizer in the milkhouse or adjacent storage areas that could be used  
2 to meet the sanitizing requirements under s. ATCP 65.12 (5).

3        9. Visibly dirty udders and teats on milking animals being milked.

4        10. Milk not cooled in compliance with s. ATCP 65.18 (4).

5        11. Rodent activity in the milkhouse.

6        12. Dead animals in the milking barn or cowyard.

7        13. Violations of standards related to the design, construction or installation of equipment or  
8 utensils, if the violation creates a substantial risk of adulteration.

9        (c) Two or more initial violations of dairy farm standards under subch. II that combine to  
10 create a substantial risk of milk adulteration, whether or not the violations individually create a  
11 substantial risk of adulteration.

12        (36) "Milk" means the normal lacteal secretion, practically free of colostrum, obtained by the  
13 complete milking of one or more healthy milking animals, and includes skim milk and cream.

14        (37) "Milk component test" means a test that determines the amount of milkfat, protein, total  
15 solids, solids-not-fat, or other components in milk, and that may affect the price that a dairy  
16 plant operator, including a milk contactor that submits a milk producer license application on  
17 behalf of a milk producer and thereby certifies that the milk producer's dairy farm and milking  
18 operations comply with applicable requirements under this chapter, pays a milk producer for  
19 milk.

20        (38) "Milk component testing device" means an automated testing device used to perform  
21 milk component tests.

22        (39) "Milk contact surfaces" means all surfaces of equipment or utensils that may come in  
23 contact with milk, or from which liquids may drain, splash, or be drawn into milk.

1       **(40)** "Milk contractor" means a milk contractor, as defined in s. 126.40(8), Stats., that may  
2       submit a milk producer license application on behalf of a milk producer and thereby certify that  
3       the milk producer's dairy farm and milking operations comply with applicable requirements  
4       under this chapter.

5       **(41)** "Milk producer" means a milk producer as defined in s. 97.22 (1) (f), Stats.

6       **(42)** "Milk quality test" means a bacteria count, somatic cell count, drug residue test, milk  
7       component test, or other analytical test, that is used to determine compliance with milk quality  
8       standards under ss. ATCP 65.70 or 65.74 or that may affect the price that a dairy plant operator,  
9       including a milk contractor that submits a milk producer license application on behalf of a milk  
10      producer and thereby certifies that the milk producer's dairy farm and milking operations comply  
11      with applicable requirements under this chapter, pays a milk producer for milk.

12      **(43)** "Milkhouse" means an enclosed facility, separated from the milking barn or parlor by a  
13      self-closing door, in which milk is cooled or stored and in which equipment and utensils are  
14      cleaned, sanitized, and stored. "Milkhouse" includes a milkhouse sharing one or more walls  
15      with a milking barn or parlor.

16      **(44)** "Milking and milk handling system" means an automated system, and all components of  
17      that system, used to draw milk from milking animals or to transport milk to a bulk tank or other  
18      container on a dairy farm. "Milking and milk handling system" includes C-I-P milking  
19      equipment and C-I-P milk pipelines.

20      **(45)** "Milking animals" means all of the following:

21      (a) Cows, sheep, and goats.

22      (b) Other hooved or camelid mammals whose milk is collected and distributed for human  
23      consumption.

1       (46) "Milking barn" means a roofed and enclosed facility, other than a milking parlor, in  
2       which milking animals are milked on a dairy farm.

3       (47) "Milking parlor" means either of the following:

4       (a) A roofed and enclosed facility that is designed and used year-round exclusively for the  
5       milking of milking animals, and that is not designed or used to house any animals.

6       (b) A seasonal facility constructed without walls that is used exclusively for the milking of  
7       milking animals and that is not designed or used to house any animals.

8       (48) "Multi-use package" means a returnable bottle or other package that is designed for  
9       repeated use.

10      (49) "Package" means a container or wrapping, having one or more product contact surfaces,  
11      that is designed or used to enclose a dairy product sold or shipped from a dairy plant. "Package"  
12      includes package covers and other package components. "Package" includes all of the  
13      following:

14      (a) A returnable bottle or other multi-use package.

15      (b) A single-service package.

16      (c) A bulk or shipping container, other than a bulk milk tanker, that has one or more product  
17      contact surfaces and is used for the sale or shipment of a dairy product from a dairy plant.

18      (50) "Pasteurize" and "pasteurization" means to thermally process every particle of a dairy  
19      product in properly designed and operated equipment according to subch. IV, in order to destroy  
20      pathogenic microbes in that dairy product. "Pasteurize" includes batch pasteurization, HTST  
21      pasteurization, HHST pasteurization, UHT pasteurization, and other equally effective  
22      pasteurization processes that are approved by the division in writing.



1       **(51)** “PMO” means the Grade A Pasteurized Milk Ordinance, 2013 revision, published by the  
2       United States department of health and human services, public health service, food and drug  
3       administration.

4       **(52)** “Person” means an individual, partnership, firm, cooperative, association, or any other  
5       business unit or entity.

6       **(53)** “Potable water” means water that meets the microbiological standards in ch. NR 809.

7       **(54)** “Potentially hazardous food” has the meaning given in Section 1-201-10 (B) (66), ch.  
8       ATCP 75 Appendix (Wisconsin Food Code).

9       **(55)** “Processing” means pasteurizing, manufacturing, blending, or packaging dairy products,  
10      or cooling dairy products previously treated by one of the preceding unit operations.

11      **(56)** “Processing plant” means a dairy plant at which dairy products are processed.

12      **(57)** “Procure milk” means to buy milk or acquire the right to market milk from a milk  
13      producer licensed under this chapter.

14      **(58)** “Product contact surface” means a surface of equipment or a surface of a utensil or  
15      package with which a dairy product normally comes in direct contact, or from which materials  
16      may drain, drip, or be drawn into a dairy product.

17      **(59)** “Qualified facility” has the meaning given in 21 CFR 117.3.

18      **(60)** “Receive milk from a milk producer” means to receive milk for which payment will be  
19      made to a milk producer, or a milk contractor that submits a milk producer license application  
20      on behalf of a milk producer and thereby certifies that the milk producer’s dairy farm and  
21      milking operations comply with applicable requirements under this chapter.

22      **(61)** “Receiving station” means a facility that is designed for the receipt and bulk storage of  
23      milk and is used to receive or store milk in bulk. “Receiving station” does not include a

1 processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to  
2 consumers.

3 (62) "Recombined dairy product" means a dairy product created by recombining separated  
4 dairy product components.

5 (63) "Reconstituted dairy product" means a dairy product created by restoring water to  
6 dehydrated dairy product ingredients.

7 (64) "Reinspection" means any of the following:

8 (a) A dairy farm inspection, other than a regularly scheduled inspection under s. ATCP  
9 65.910 (2) or 65.912, the division makes in response to a key violation.

10 (b) A dairy farm inspection, other than a regularly scheduled inspection under s. ATCP  
11 65.910 (2) or 65.912, for which a fee is chargeable under s. ATCP 65.70 (2) (g), 65.72 (10),  
12 65.920 (4), 65.920 (7), or 65.922 (2) (c).

13 (c) A dairy plant inspection, other than a regularly scheduled inspection under s. ATCP  
14 65.930 (2), that the division makes in response to a violation for which a fee is chargeable under  
15 s. ATCP 65.04(11).

16 (65) "Safe temperatures", as applied to refrigerated potentially hazardous foods means  
17 temperatures of 45° F. (7° C.) or below. As applied to heated, potentially hazardous foods, "safe  
18 temperatures" means temperatures of 135° F. (57° C.) or above. As applied to frozen foods, "safe  
19 temperatures" means temperatures of 0° F. (-17° C.) or below.

20 (66) "Sanitize" means to destroy pathogens and other microorganisms to the maximum extent  
21 practicable, by applying a sanitizer at concentrations in compliance with 21 CFR part 178.1010,  
22 or by applying a sanitizing method approved by the division, to an otherwise clean surface.

23 (67) "Secretary" means the secretary of the department.

1 (68) "Shipping container" means a box, carton, or similar container in which packaged dairy  
2 products are shipped in bulk from a dairy plant.

3 (69) "Single-service articles" means utensils, including containers or packages, filters, and  
4 other articles, that are designed to be used only once before disposal.

5 (70) "Standard of identity" means a dairy product standard of identity in 21 CFR 131, 133,  
6 135.3, 135.110-135.140, 168.122, 184.1979, 1979a, and 1979c; or in 21 USC 321a and 321c.

7 (71) "Transfer station" means a facility that is designed and used solely to transfer milk from  
8 one bulk transport container to another without intervening storage.

9 (72) "UHT" means ultra-high temperature.

10 (73) "Utensil" means any hand-held or similarly portable container, device, article, or  
11 implement that has one or more milk contact surfaces and is used for any of the following:

12 (a) To draw milk from milking animals or to transport, hold, strain, handle, or store milk  
13 on a dairy farm.

14 (b) To process or handle milk or dairy products at a dairy plant.

15 **ATCP 65.02 Milk producer licenses and permits; fees. (1) MILK PRODUCER LICENSE**  
16 **REQUIREMENT.** (a) No person may operate as a milk producer offering milk for sale without an  
17 annual license from the department for each farm operated, as provided under s. 97.22 (2), Stats.  
18 A license expires on April 30 of each year. Whenever the department first issues a milk producer  
19 license, that license shall bear a livestock premises code issued under s. ATCP 17.02 (7) for the  
20 dairy farm associated with the milk producer license. A license is not transferable between  
21 persons or dairy farms. As a condition to licensing, a milk producer shall comply with  
22 applicable provisions of this chapter.

23 (b) A separate license is required for any of the following:

- 1        1. Each species of milking animal milked by each milk producer on a dairy farm.
- 2        2. Each dairy farm operated by a milk producer at which milk is produced and offered for
- 3        sale.
- 4        3. Each dairy plant, if a milk producer is shipping milk to more than one dairy plant,
- 5        including a milk contractor that submits a milk producer license application on behalf of a milk
- 6        producer and thereby certifies that the milk producer's dairy farm and milking operations comply
- 7        with applicable requirements under this chapter.

8        (2)LICENSE APPLICATION; RENEWAL. (a) *General.* A license application, signed by the milk  
9        producer, shall be made on a form provided by the department and shall include the information  
10       that is required under s. ATCP 17.02 (4) for the purpose of livestock premises registration. A  
11       dairy plant operator, milk contractor, or their representative, after inspecting the dairy farm under  
12       s. ATCP 65.910 (1), shall submit the application on behalf of the milk producer and shall certify  
13       that the dairy farm and milking operations comply with applicable requirements under this  
14       chapter. An annual license may be renewed each year upon payment of the required fees under  
15       sub. (4), without further application by the milk producer, provided the milk producer is  
16       registered under s. ATCP 17.02 (4).

17       (b) *Action on license application.* Within 15 days after the department receives a complete  
18       license application under par. (a), the department shall do any of the following:

- 19       1. Grant the application.
- 20       2. Deny the application.
- 21       3. Issue a temporary license under par. (c).

22       (c) *Temporary license.* The department may issue a temporary license, for a period not to  
23       exceed 40 days, pending final action on a milk producer's application for an annual milk

1 producer license. The department shall grant or deny the annual license application before the  
2 temporary license expires. If the department denies the annual license application before the  
3 temporary license expires, the temporary license is automatically terminated when the producer  
4 receives written notice of the denial. The holder of a temporary license acquires no rights  
5 beyond those conferred by the temporary license under this paragraph.

6 (3) PRE-LICENSE INSPECTION. (a) A division representative, on behalf of the department, may  
7 inspect a dairy farm, as the division deems necessary, before issuing a license to a milk producer.  
8 If the dairy farm does not meet the minimum standards required for licensing, the department  
9 shall deny the license application.

10 (b) Automated milking installations must be reviewed and approved by a division  
11 representative before a milk producer license is issued by the department.

12 (4) LICENSE FEE. (a) The annual fee for a milk producer license under this section is \$30.

13 (b) A dairy plant operator, including a milk contractor that submits a milk producer license  
14 application on behalf of a milk producer and thereby certifies that the milk producer's dairy farm  
15 and milking operations comply with applicable requirements under this chapter, shall pay the  
16 annual milk producer license fee under this section by April 30 of each year for each dairy farm  
17 from which the dairy plant operator receives milk on that date.

18 1. A dairy plant operator, including a milk contractor that submits a milk producer license  
19 application on behalf of a milk producer and thereby certifies that the milk producer's dairy  
20 farm and milking operations comply with applicable requirements under this chapter, who  
21 pays a milk producer license fee, under par. (a), may charge that fee back to a milk producer  
22 if the dairy plant operator gives prior written notice to the milk producer, but the dairy plant  
23 operator may not deduct the fee from any payment that the dairy plant operator owes the milk

1 producer for milk received by the dairy plant operator. A dairy plant operator may not  
2 discriminate between milk producers with respect to fee charges under this paragraph, but  
3 may charge back license fees to all milk producers who cease shipping milk to the operator's  
4 dairy plant during the license year.

5 2. The license fee in this subsection is non-refundable.

6 **(5) DENIAL OF LICENSE APPLICATION.** If the department denies a milk producer's application  
7 for a license under this section, the department shall issue the denial in writing and shall state the  
8 reasons for the denial. The denial notice shall include a notice of the applicant's right to hearing  
9 under s. ATCP 65.928. If a division representative inspects the applicant's dairy farm, the  
10 division representative may deny the application by noting the denial on the inspection report  
11 given to the producer, provided that the inspection report includes the required information under  
12 this subsection.

13 **(6) TRANSFER BETWEEN DAIRY PLANTS.** A dairy plant operator, including a milk contractor  
14 that submits a milk producer license application on behalf of a milk producer and thereby  
15 certifies that the milk producer's dairy farm and milking operations comply with applicable  
16 requirements under this chapter, shall notify the department in writing within 3 business days  
17 after any of the following occurs:

18 (a) The dairy plant operator begins receiving milk shipments from a licensed producer who  
19 has previously shipped milk to another dairy plant. No new license is required.

20 (b) A licensed producer is re-assigned, for licensing purposes under this section, to that dairy  
21 plant.

22 **(7) MILK PRODUCER SHIPPING MILK TO MORE THAN ONE DAIRY PLANT.** A milk producer may  
23 concurrently ship milk to more than one dairy plant, including a milk contractor that submits a

1 milk producer license application on behalf of a milk producer and thereby certifies that the milk  
2 producer's dairy farm and milking operations comply with applicable requirements under this  
3 chapter, if the milk producer is assigned, for licensing purposes under this section, to each dairy  
4 plant. Each dairy plant's operator shall do all of the following on behalf of the milk producer:

5 (a) Pay the producer's annual license fees under this section.

6 (b) Pay the producer's reinspection fees, if any, under s. ATCP 65.04.

7 (c) Fulfill other dairy plant operator obligations under this subchapter, if any, related to the  
8 milk producer's license or grade A producer permit.

9 **(8) MILK PRODUCED FOR CUSTOM PROCESSING.** A dairy plant operator shall take ownership  
10 and market a milk producer's milk unless the dairy plant operator is deemed to be custom  
11 processing a producer's milk and all of the following apply:

12 (a) The dairy plant operator, on behalf of the milk producer, makes that milk into dairy  
13 products.

14 (b) The milk producer retains title to that milk and to all of the dairy products made from that  
15 milk.

16 (c) The dairy plant operator does not market that milk, or the dairy products made from that  
17 milk, but promptly returns the dairy products to the milk producer or the milk producer's agent  
18 for consumption or marketing.

19 (d) The dairy plant operator does not commingle milk produced by that milk producer with  
20 other milk.

21 (e) The dairy plant operator provides the custom processing services pursuant to a written  
22 agreement with the milk producer or the milk producer's agent. The agreement shall clearly state  
23 that the milk producer retains title to all of the custom processed milk and dairy products and that

1 the milk producer's milk shipments under the custom processing agreement are not secured under  
2 ch. 126, Stats.

3 (f) The milk producer ships, for custom processing under this subsection, not more than 50  
4 percent of the producer's milk production in any month.

5 (g) The dairy plant operator custom processes not more than a total of 5 million pounds of  
6 milk from all milk producers entering into written agreements with the dairy plant operator,  
7 under par. (e), in any month.

8 (h) The milk producer or the milk producer's agent notifies the division of the custom  
9 processing agreement before shipping milk to the dairy plant operator for custom processing  
10 under this subsection and annually thereafter, and simultaneously notifies the dairy plant  
11 operator to whom the producer is assigned for licensing purposes, under par. (a), if that dairy  
12 plant operator is not the one providing the custom processing services.

13 (i) The milk producer or the milk producer's agent files a monthly report with the  
14 department, on or before the 15th day of the month, reporting the volume of milk delivered to the  
15 custom processor during the preceding month. The milk producer or milk producer agent shall  
16 file a copy of the report with the dairy plant operator to whom the producer is assigned for  
17 licensing purposes, under par. (a), if that dairy plant operator is not providing the custom  
18 processing services.

19 (j) The milk producer or the milk producer's agent pays to the department the dairy plant  
20 milk procurement fees, under s. ATCP 65.04 (10), that apply to the milk producer's custom  
21 processed milk shipments.



1 (k) The milk producer or the milk producer's agent pays milk marketing order assessments  
2 and other state or federally mandated assessments that apply to the milk producer's custom  
3 processed milk shipments, in the manner prescribed by state or federal law.

4 (9) TEMPORARY DISCONTINUATION OF MILK SHIPMENTS. (a) A cow milk producer's license  
5 remains in effect if the milk producer resumes milk shipments within 180 days after temporarily  
6 discontinuing shipments to the dairy plant to whom the milk producer is assigned, provided  
7 shipments were not transferred to another dairy plant.

8 (b) A sheep or goat milk producer license remains in effect if the milk producer resumes milk  
9 shipments within 240 days after temporarily discontinuing shipments to the dairy plant to whom  
10 the milk producer is assigned, provided shipments were not transferred to another dairy plant.

11 (c) If the milk producer does not resume milk shipments within the allowed 180 or 240 days,  
12 the department shall summarily revoke the milk producer's license. The department shall give  
13 the milk producer a written revocation notice at least 5 business days before the effective date of  
14 the notice.

15 (10) TERMINATION OF A MILK PRODUCER LICENSE. If a milk producer stops shipment of milk  
16 to a dairy plant, including a milk contractor that submits a milk producer license application on  
17 behalf of a milk producer and thereby certifies that the milk producer's dairy farm and milking  
18 operations comply with applicable requirements under this chapter, for any reason, other than a  
19 reason identified in sub. (8), or s. ATCP 65.70 (2) (f), or 65.72 (6) or (7), the dairy plant operator  
20 shall notify the department in writing within 3 business days after receiving the last shipment of  
21 milk from that producer. The department shall summarily revoke the milk producer's license 30  
22 days after that last milk shipment date unless, by the scheduled revocation date, the milk  
23 producer is shipping milk to another dairy plant operator to whom the producer is assigned for

1   licensing purposes under this section. The department shall give the producer a written  
2   revocation notice at least 5 business days prior to the effective date of the notice.

3       **(11) GRADE A PERMIT REQUIREMENT.** No milk producer may sell or distribute milk as grade  
4   A milk without obtaining an annual grade A producer permit from the department, as provided  
5   under s. 97.22 (3), Stats. A grade A producer permit is not valid unless the producer also holds a  
6   valid milk producer license under s. ATPC 65.02. A grade A producer permit expires on April  
7   30 of each year. A separate grade A producer permit is required for each milk producer on a  
8   dairy farm at which milk is produced for distribution or sale as grade A milk. A grade A  
9   producer permit is not transferable between persons or dairy farms. Except as provided in sub.  
10   (12), no more than one milk producer at a dairy farm shall have a grade A permit. A grade A  
11   permit may be issued by the department in the form of an endorsement on an inspection report  
12   given to the milk producer. As a condition to holding a grade A producer permit, a milk  
13   producer shall comply with applicable provisions of this chapter.

14       **(12) GRADE A PERMITS AT A SINGLE DAIRY FARM OPERATED BY MULTIPLE MILK PRODUCERS.**  
15   More than one milk producer at a farm may hold grade A producer permits if each milk producer  
16   holding a grade A producer permit ships milk to the same dairy plant. All water test results under  
17   s. ATPC 65.10, drug residue test results under s. ATPC 65.72, milk quality test results under s.  
18   ATPC 65.76, inspection results under ss. ATPC 65.910 and 65.912, and enforcement actions taken  
19   under Subchapter VI apply equally to all holders of a milk producer license at a single dairy farm  
20   sharing a herd of milking animals; access or use of a barn, milking barn, milking parlor, milking  
21   and milk handling system; or any other part of a dairy farm. The division shall simultaneously  
22   inspect the milking operations of a dairy farm at which more than one grade A producer permit is  
23   held. The inspections shall be in accordance with ss. ATPC 65.910 and 65.912.

1       **(13) GRADE A PERMIT APPLICATION; RENEWAL.** (a) *General.* A grade A producer permit

2 application, signed by the milk producer, shall be made on a form provided by the department.

3 A dairy plant operator, including a milk contractor that submits a milk producer license  
4 application on behalf of a milk producer and thereby certifies that the milk producer's dairy farm  
5 and milking operations comply with applicable requirements under this chapter, after inspecting  
6 the dairy farm under Subchapter VI shall submit the application on behalf of the milk producer,  
7 and shall certify that the dairy farm facilities comply with applicable grade A requirements under  
8 this chapter. A grade A producer permit may be renewed each year in connection with the  
9 renewal of the milk producer's license under s. ATPCP 65.02, without further application by the  
10 milk producer.

11       (b) *Action on permit application.* Within 15 days after the department receives a complete  
12 grade A producer permit application under par. (a), the department shall do any of the following:

13       1. Grant the application after inspecting the dairy farm.

14       2. Deny the application.

15       **(14) PRE-PERMIT INSPECTION.** A division representative, on behalf of the department, may  
16 inspect a dairy farm before issuing a grade A producer permit for that milk producer.

17       **(15) DENIAL OF GRADE A PERMIT APPLICATION.** The department shall deny an application for  
18 a grade A producer permit if it determines, under sub. (14), that minimum standards are not met.  
19 The department shall issue the denial in writing and shall state the reasons for the denial. The  
20 denial notice shall include a notice of the applicant's right to hearing under s. ATPCP 65.928. A  
21 representative of the division, after inspecting the applicant's dairy farm, may deny a grade A  
22 producer permit application by noting the denial on the inspection report given to the producer,  
23 provided that the inspection report includes the required information under this subsection.

1       **(16) TRANSFER OF GRADE A PRODUCERS BETWEEN DAIRY PLANT OPERATORS.** A dairy plant  
2 operator, including a milk contractor that submits a milk producer license application on behalf  
3 of a milk producer and thereby certifies that the milk producer's dairy farm and milking  
4 operations comply with applicable requirements under this chapter, shall notify the department in  
5 writing within 3 business days after any of the following occurs:

6       (a) The operator begins receiving milk shipments from a grade A producer who has  
7 previously shipped milk to another operator.

8       (b) A grade A producer is re-assigned, for permit purposes under this section, to that dairy  
9 plant operator.

10       **Note:** No new grade A producer permit is necessary when a producer transfers to a different dairy plant.  
11

12       **(17) GRADE A MILK PRODUCER SHIPPING MILK TO MORE THAN ONE DAIRY PLANT.** A milk  
13 producer holding a grade A producer permit may concurrently ship milk to more than one dairy  
14 plant operator, including a milk contractor that submits a milk producer license application on  
15 behalf of a milk producer and thereby certifies that the milk producer's dairy farm and milking  
16 operations comply with applicable requirements under this chapter, if the milk producer and  
17 dairy plant operators comply with s. ATCP 65.02 (7) and only one of the dairy plants accepts the  
18 milk producer's milk as grade A milk.

19       **(18) TEMPORARY DISCONTINUATION OF GRADE A MILK SHIPMENTS.** (a) A dairy plant operator,  
20 including a milk contractor that submits a milk producer license application on behalf of a milk  
21 producer and thereby certifies that the milk producer's dairy farm and milking operations comply  
22 with applicable requirements under this chapter, shall notify the department if a grade A milk  
23 producer temporarily discontinues milk shipments without transferring milk shipments to another  
24 dairy plant. The dairy plant operator shall notify the department in writing within 3 business

1 days after the producer discontinues shipments and within 3 business days after the producer  
2 resumes milk shipments.

3 (b) A milk producer's grade A producer permit remains in effect if the milk producer  
4 resumes milk shipments, under par. (a), within 60 days after temporarily discontinuing milk  
5 shipments to the dairy plant to whom the milk producer is assigned, provided shipments were not  
6 transferred to another dairy plant. If the milk producer does not resume milk shipments within 60  
7 days, the department shall summarily revoke the milk producer's grade A producer permit. The  
8 department shall give the producer a written revocation notice at least 5 business days before the  
9 effective date of the notice.

10 (19) RE-INSPECTION FEE REQUIREMENT. If a division representative, on behalf of the  
11 department, conducts a reinspection, the department shall charge a reinspection fee of \$30 for the  
12 reinspection, or \$60 if the reinspection is required for reinstatement of a milk producer's license  
13 or grade A producer permit pursuant to s. 97.22 (4), Stats. A reinspection fee is payable when  
14 the reinspection is completed, and is due upon written demand from the department.

15 (20) FEE PAYMENT OBLIGATIONS; ENFORCEMENT. If no dairy plant pays the fees required  
16 under this subchapter on behalf of a milk producer, the department may demand payment from  
17 the milk producer. If, after reasonable notice and demand for payment, a milk producer fails to  
18 pay a fee that was due and payable before the current license year, the department may suspend  
19 the milk producer's license or grade A producer permit.

20 (21) BTU REQUIREMENTS. Each farm in a BTU shall be operated by a licensed milk  
21 producer who holds a grade A producer permit, shall be included in only one BTU, and shall  
22 produce milk for pasteurization that is collected by a bulk milk weigher and sampler licensed  
23 under ATCP 82.04.

1       **ATCP 65.04 Dairy plant licenses and permits; fees. (1) DAIRY PLANT LICENSE REQUIRED.**

2       (a) *License required.* Except as provided under sub. (b), no person may operate a dairy plant, or  
3       act as a milk contractor who submits a milk producer license application on behalf of a milk  
4       producer and thereby certifies that the milk producer's dairy farm and milking operations comply  
5       with applicable requirements under this chapter, without a valid license issued by the department  
6       for that dairy plant or milk contractor. A dairy plant license expires on April 30 annually and is  
7       not transferable between persons or locations. A dairy plant receiving or procuring milk from  
8       milk producers shall hold a current milk contractor license.

9       Note: See ss. 97.20, and 126.40 Stats.

10       (b) *License exemptions.* A dairy plant license is not required, under sub. (a), for any of the  
11       following:  
12

13       1. A farm manufacturing or processing dairy products solely for consumption by the owner  
14       or operator of the farm, members of the farm household, or nonpaying farm guests or employees.

15       2. The retail preparation or processing of meals for sale directly to consumers or through  
16       vending machines if the preparation and processing of dairy products, made from commercially  
17       pasteurized dairy products, is covered under a restaurant license or other license issued under s.  
18       97.605, Stats. Packaging of grade A dairy products for retail sale by exempted establishments  
19       under this section is prohibited.

20       3. A retail food establishment, including a restaurant, licensed under s. 97.30, Stats., if the  
21       establishment processes non-grade A dairy products made from commercially pasteurized and  
22       packaged dairy products solely for retail sale at the establishment.

23       4. A milk receiving station or transfer station operated at the same location, and by the same  
24       person, as a processing plant licensed under sub. (1).

1        5. A milk transfer station operated at the same location, and by the same person, as a milk  
2 receiving station licensed under sub. (1).

3        6. A food processing plant licensed, under s. 97.29, Stats., that meets the requirements of s.  
4 97.20 (2) (e) 5.

5        7. A dairy plant that is exempted from licensing by department rule.

6        **(2) LICENSE APPLICATION.** An application for a dairy plant license shall be made on a form  
7 provided by the department and shall be accompanied by each applicable non-refundable fee  
8 required under s. ATCP 65.04. The application shall include the following information, and any  
9 other information reasonably required by the department for licensing purposes:

10        (a) The correct legal name of the dairy plant operator and any trade name used by the  
11 operator.

12        (b) The dairy plant address, including number, street name, and zip code; and telephone  
13 number of the dairy plant to which the license application pertains, and the name of a responsible  
14 person who may be contacted at that address.

15        (c) A statement indicating whether the dairy plant is a processing plant, receiving station, or  
16 transfer station.

17        (d) A description of the processing operations, if any, conducted at the dairy plant.

18        **(3) ACTION ON LICENSE APPLICATION; DEADLINE.** The department shall grant or deny a  
19 license application, under sub. (2), within 40 days after the department receives a complete  
20 application, or before the expiration date of any temporary license issued under sub. (5),  
21 whichever occurs later.

1       **(4) PREREQUISITES FOR LICENSING.** The department shall not issue or renew a dairy plant  
2 license, or issue a temporary license under sub. (5), unless all of the following conditions are  
3 met:

4       (a) The license applicant has paid all fees and surcharges, set forth in a statement from the  
5 department, that are due and payable by the applicant under this section. The department shall  
6 refund a fee or surcharge paid under protest if the department determines that the fee or  
7 surcharge is not due and payable under this section.

8       (b) The license applicant has filed all financial information and security that the department  
9 requires of that applicant under ch. ATP 100. If an applicant has not filed required financial  
10 information or security, the department may issue a conditional license that prohibits the licensed  
11 operator from buying milk or fluid milk products from producers or their agents, but allows the  
12 operator to buy milk or fluid milk products from other sources.

13       (c) The division has inspected the dairy plant under sub. (6) (b) if the dairy plant is not  
14 currently licensed.

15       **(5) TEMPORARY LICENSE.** (a) Except as provided under par. (c), the department may issue a  
16 temporary dairy plant license to an applicant, under sub. (2), pending the department's final  
17 action on that person's license application. A temporary license may be issued for a period of not  
18 more than 40 days. If the department denies a license application before the applicant's  
19 temporary license expires, the temporary license is automatically terminated when the applicant  
20 receives written notice of the denial.

21       (b) The holder of a temporary license, under par. (a), acquires no rights beyond those  
22 conferred by the temporary license. The holder of a temporary license may not purchase milk or



1 fluid milk products from milk producers or their agents, but may purchase milk or fluid milk  
2 products from other sources.

3 (c) The department may not issue a temporary license, under par. (a), in response to a license  
4 renewal application by the holder of an existing license.

5 (6) PRE-LICENSE INSPECTION. (a) The division may inspect a dairy plant, as the department  
6 deems necessary, before issuing a license for that dairy plant.

7 (b) The department may not issue a dairy plant license, under sub. (1), or a temporary license,  
8 under sub. (5), for a dairy plant that is not currently licensed until the division inspects that dairy  
9 plant for compliance with this chapter.

10 **Note:** The department is not required to inspect a currently licensed dairy plant before renewing the license of  
11 the current operator, or before issuing a license to a new operator of that dairy plant.  
12

13 (7) ADDED OPERATIONS. No dairy plant operator may add a new category of operations at a  
14 licensed dairy plant during the time period for which the license was issued unless the operator  
15 notifies the division and obtains written authorization for the new category of operations. A  
16 dairy plant operator adding the processing of low-acid or acidified foods packaged in  
17 hermetically sealed containers, seafood or juice, shall comply with the applicable requirements in  
18 s. ATCP 70. In this subsection, "new category of operations" includes the manufacture or  
19 processing of any of the following that was not identified in the operator's most recent license  
20 application under sub. (2):

21 (a) Fluid milk products.

22 (b) Cheese and cheese products.

23 (c) Ice cream or frozen desserts.

24 (d) Dairy products dried at the dairy plant.

25 (e) Multi-ingredient dried dairy products blended at the dairy plant.

1       (8) ANNUAL DAIRY PLANT LICENSE FEES. (a) *Fees based on receipts or production.* An

2       applicant for a dairy plant license shall pay an annual license fee. The license fees in this  
3       subsection are not refundable. Except as provided under par. (b), license fees are based on the  
4       dairy plant's milk receipts or production during the previous calendar year, regardless of who  
5       operated that dairy plant in the previous calendar year.

6       (b) *Fees for plants with no milk receipts or production during previous year.* If a dairy plant  
7       had no milk receipts or production during the previous calendar year, license fees shall be based  
8       on projected milk receipts or production during the license year for which application is made.  
9       At the end of that license year, the license holder shall report the actual milk receipts or  
10      production during the license year, and the department shall determine the appropriate fee, under  
11      par. (a), based on actual receipts or production. If the fee based on actual receipts or production  
12      differs from the fee based on projected receipts or production, the license holder shall pay the  
13      balance due or receive a credit from the department on the next year's license fee.

14      (c) *License fee amounts.* The license fee, under par. (a), is \$120 plus whichever of the  
15      following applies:

16      1. For a grade A processing plant, a supplementary license fee of \$955 if the plant received  
17      more than 2,000,000 pounds of milk from milk producers, or a supplementary license fee of  
18      \$735 if the plant received 2,000,000 pounds or less of milk from producers.

19      2. For a grade B processing plant that manufactured or processed more than 1,000,000  
20      pounds of dairy products or more than 200,000 gallons of frozen dairy products, a supplementary  
21      license fee of \$400.

22      3. For a grade A receiving station, a supplementary license fee of \$370.

1       **(9) SURCHARGE AND PAST FEES FOR OPERATING WITHOUT LICENSE.** (a) An applicant for a  
2 dairy plant license shall pay a license fee surcharge if the department determines that, within 365  
3 days before submitting the license application, the applicant operated the dairy plant without a  
4 license in violation of s. ATCP 65.04 (1). The amount of the surcharge is \$100, or \$500 if the  
5 dairy plant operator procured milk or fluid milk products from milk producers or their agents.

6       (b) In addition to paying the license fee surcharge under par. (a), an applicant who violated s.  
7 ATCP 65.04 (1) shall pay all fees, set forth in a statement from the department, that are due for  
8 the license year in which the applicant violated s. ATCP 65.04 (1).

9       (c) Payment of the license fee surcharge and past fees, under pars. (a) and (b), does not  
10 relieve the applicant of any other civil or criminal liability that results from the unlicensed  
11 operation of a dairy plant, but does not constitute evidence of any violation of law.

12       **(10) MILK PROCUREMENT FEE; MONTHLY PAYMENT.** (a) *Monthly fee required.* On or before  
13 the 25th day of each month, a dairy plant operator, including a milk contractor that submits a  
14 milk producer license application on behalf of a milk producer and thereby certifies that the milk  
15 producer's dairy farm and milking operations comply with applicable requirements under this  
16 chapter, shall pay a milk procurement fee in the amount specified under par. (b). The monthly  
17 fee shall be based on the amount of milk that was procured by the dairy plant or milk contractor,  
18 directly from milk producers in the month preceding the month when the fee payment is due,  
19 regardless of who procured the milk during that preceding month.

20       (b) *Fee amounts.* Milk procurement fees, required under par. (a), are as follows:

- 21       1. For each 100 pounds of grade A milk procured from milk producers, 1.048 cent.
- 22       2. For each 100 pounds of grade B milk procured from milk producers, 0.2 cent.

1 (c) *Out-of-state milk shipments.* A milk producer who ships milk to an out-of-state dairy  
2 plant shall pay a monthly milk procurement fee on that milk, as required under par. (a), in the  
3 amount specified under par. (b), unless the operator of that out-of-state dairy plant voluntarily  
4 pays that fee for the milk producer.

5 (11) REINSPECTION FEES. (a) *Dairy plant to pay reinspection fee for milk producer.* A dairy  
6 plant operator, including a milk contractor that submits a milk producer license application on  
7 behalf of a milk producer and thereby certifies that the milk producer's dairy farm and milking  
8 operations comply with applicable requirements under this chapter, shall pay the dairy farm  
9 reinspection fee under this section for a milk producer if, at the time of a reinspection, the  
10 producer was assigned to that operator for licensing purposes under s. ATCP 65.02. The  
11 department may issue a statement of reinspection fees payable by a dairy plant operator and may  
12 demand payment from the dairy plant operator when it issues an application form for the renewal  
13 of the dairy plant operator's license under s. 97.20, Stats.

14 (b) *Fee amounts.* The reinspection fee required, under par. (a), includes, for each  
15 reinspection, a basic reinspection fee of \$60 plus a supplementary reinspection fee as follows:

16 1. For a grade A processing plant, a supplementary reinspection fee of \$240 if the plant  
17 received more than 2,000,000 pounds of milk from milk producers during the previous calendar  
18 year, or a supplementary reinspection fee of \$190 if the plant received 2,000,000 pounds or less  
19 of milk from milk producers during the previous calendar year.

20 2. For a grade B processing plant, a supplementary reinspection fee of \$210.

21 3. For a grade A receiving station, a supplementary reinspection fee of \$90.

1       **(12) DAIRY PRODUCT GRADING FEE.** (a) A person applying for a license to produce gradable  
2 butter, for which grading is required under s. 97.176, Stats., or cheese at a grade B dairy plant  
3 shall pay an annual grading fee under s. 97.177, Stats.

4       (b) The grading fee, under par. (a), is 1.35 cents per 100 pounds of butter and cheese for  
5 which grading is required under s. 97.176 or 97.177, Stats., and that is produced at the dairy  
6 plant by any operator during the previous calendar year. If the dairy plant was not in operation  
7 during the previous calendar year, the license applicant shall pay a grading fee based on  
8 estimated production for the calendar year in which the application is made. At the end of the  
9 license year, the license holder shall report the actual calendar year production, and the  
10 department shall re-calculate the grading fee based on that actual production. If the grading fee  
11 based on actual production differs from the fee based on estimated production, the license holder  
12 shall pay the balance due or receive a credit from the department on the next year's grading fee.

13       (c) For purposes of this subsection, ungraded cheese in 55 gallon metal or fiber barrels shall  
14 not be graded.

15       **(13) DAIRY TRADE PRACTICES FEE; MONTHLY PAYMENTS.** A dairy plant operator shall pay a  
16 monthly dairy trade practice fee if required under s. 100.201 (6), Stats.

17       **Note:** A dairy plant operator is required to pay a monthly dairy trade practice fee under s. 100.201 (6), Stats., if  
18 the operator sells milk, fluid milk products, ice cream, or other frozen desserts at wholesale or retail, in consumer  
19 package form, to persons in this state.  
20

21       **(14) GRADE A PERMIT REQUIRED.** (a) Except as provided under sub. (15), no person operating  
22 a dairy plant at which milk or fluid milk products are received, transferred, or processed may sell  
23 or distribute that milk or those fluid milk products as grade A milk or grade A milk products  
24 unless that person holds a valid grade A dairy plant permit issued by the department for that  
25 dairy plant. If a grade A receiving station or transfer station is operated at the same location as a